IN THE HIGH COURT OF HIMACHAL PRADESH
AT SHIMLA

CMPMOs No. 13 and 14 of 2006

Date of Decision: 16th November, 2006.

CMPMO No.13/2006	
Dhani Ram and others	**Petitioners**
Versus	
Union of India and others	**Respondents**
CMPMO No.14/2006	
Bhag Singh and others	**Petitioners**
Versus	
Union of India and others	**Respondents**

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The Hon'ble Mr. Justice V.K.Gupta, C.J.

Whether approved for reporting[1]?

For the petitioners: **M/s Dharamvir Sharma and Vikrant Sankhayan, Advocates.**

For the respondents: **Ms.Shilpa Sood, Central Govt. Counsel, for respondents No.1 and 2.**
Mr.M.S.Chandel, Advocate General, with Mr.P.M.Negi, Dy. Advocate General, for respondent No.3.

V.K.Gupta, C.J. (Oral)

By this common order, both the petitions are being disposed of together.

The cases have a chequered history. While laying overhead high tension power lines some fruit bearing trees belonging to the petitioners were damaged. Compensation was determined at some level

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[1] Whether the reporters of Local Papers are allowed to see the Judgment?

but the petitioners did not either challenge the aforesaid determination of compensation or seek enhancement of the compensation amount until after the judgment passed by this Court in Civil Review Petition No.1/99 on 3rd May, 1999. This judgment in the aforesaid Civil Review Petition was preceded by an earlier judgment dated 31st March, 1998 passed in CWP No.377 of 1997. In CWP No. 377 of 1997 judgment/ award dated 29th April, 1997 passed by the learned District Judge, Bilaspur was under challenge. While modifying the aforesaid Award/judgment passed by the learned District Judge, Bilaspur, a Division Bench of this Court assessed the compensation to the tune of five times of the compensation assessed by the Department.

It was only after the disposal of the aforesaid Civil Review Petition No.1/99 that the petitioners herein filed Petition No.3 of 1999 before the learned District Judge for enhancement of compensation. The learned District Judge vide the judgment and award dated 18th October, 2005 even though passed an order for enhancing the compensation to the tune of five times of the amount assessed by the Department with respect to fruit bearing trees, it did not award any interest to the petitioners at any rate and for any period on the enhanced amount of compensation. The petitioners are aggrieved against

this part of the aforesaid judgment dated 18th October, 2005.

The petitioners' grievance in these petitions challenging the aforesaid part of the award is that in the earlier judgment/ award dated 29th April, 1997, the learned District Judge, Bilaspur, while ordering the enhancement of compensation had awarded interest @ 12% per annum on the enhanced amount of compensation for the period mentioned in the said judgment.

One thing is absolutely clear and that is that the petitioners cannot be held entitled to any interest at any rate for any period prior to 20th November, 1999, that is the date on which they filed the aforesaid claim for enhancement. I am saying so on the ground that the petitioners took no action prior to 20th November, 1999 for claiming enhancement in compensation and, therefore, they cannot be held entitled to any interest for any period and at any rate prior to 20th November, 1999.

The question which thus arises for consideration is whether the petitioners should have been granted/ awarded interest for a period post 20th November, 1999. The learned District Judge did not consider this aspect in his judgment dated 18th October, 2005. That appears to be a mere omission.

I remit the cases back to the learned District Judge for his limited consideration only in so far as the award of interest is concerned. After hearing the learned counsel for the parties and on consideration of all the relevant aspects which the parties may urge before him, the learned District Judge shall accord his due consideration to the aforesaid aspect, viz., whether the petitioners are entitled to any interest on the enhanced amount of compensation and if so at what rate and for what period (of course post 20th November, 1999).

I must hasten to add that I have not expressed any opinion at all about the entitlement of the petitioners to the award of interest at any rate and for any period post 20th November, 1999. This is a matter entirely to be decided by the learned District Judge based upon his own consideration and after hearing learned counsel for the parties.

The petitions are allowed. No order as to costs.

16th November, 2006 (V.K.Gupta), C.J.
(C)